

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE**

J.B. POINDEXTER & CO., INC. and
EFP, LLC,

Plaintiffs,

v.

ROI INDUSTRIES GROUP, INC. d/b/a
ROI MACHINERY & AUTOMATION, INC.
and KEVIN M. SAYLOR

Defendants.

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No. 3:20-cv-01113

Judge: Aleta A. Trauger

MEMORANDUM IN SUPPORT OF PLAINTIFFS' MOTION FOR DEFAULT

Plaintiffs, J.B. Poindexter & Co., Inc. and EFP, LLC, through counsel and pursuant to Rule 55(a) of the Federal Rules of Civil Procedure, move for an entry of default against Defendants for their failure to timely respond to Plaintiffs' Complaint.

Rule 55(a) of the Federal Rules of Civil Procedure provides that "[w]hen a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default."¹

Plaintiffs served both Defendants on February 19, 2021,² which properly informed them of their obligation to plead or otherwise defend the allegations in Plaintiffs' Complaint within 21 days (March 12, 2021).³ March 12 has come and gone, but Defendants have to date failed to file a

¹ *Id.* See also *Lucas v. Desilva Auto. Servs.*, No. 1:16-cv-790, 2019 U.S. Dist. LEXIS 130146, at *16 (S.D. Ohio Aug. 5, 2019) (also noting that "before moving for judgment by default, 'the proponent must first request the clerk's entry of default pursuant to Rule 55(a).'").

² Only one Defendant is an individual (Kevin Saylor), and he is neither incompetent, a minor, nor in military service. Dec. Stephan R. Wright, Esq. para 4 (attached hereto as **Exhibit 1**).

³ See Dec. Stephan R. Wright, Esq. para 2.

responsive pleading.⁴ As a result, Plaintiffs request that this Court direct the Clerk to enter an entry of Default against each Defendant in this action.

Respectfully submitted:

THE LAW OFFICE OF STEPHAN WRIGHT, PLLC

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Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I do hereby certify that the forgoing document has been filed electronically. A copy of this filing will be sent via U.S. Mail to the parties at the addresses below.

ROI INDUSTRIES GROUP, INC. d/b/a
ROI MACHINERY & AUTOMATION, INC.
c/o Registered Agent, Kevin M. Saylor
1534 Cher Drive, Building 2,
Durham, North Carolina 27713

Kevin M. Saylor
903 East Oak Drive
Durham, North Carolina 27705

This 19th day of March, 2021.

BY: /s/Stephan R. Wright
Stephan R. Wright, Esq.

⁴ See Dec. Stephan R. Wright, Esq. para 3.